

**TERMINAL DISCLAIMER TO OBLIVATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Checklist Number (Optional)
REINP137USA

In re Application of: Avianet Rubenstein

Application No.: 10/797,937

Filed: March 11, 2004

For: ETHERNET TRANSPORT OVER A TELEPHONE LINE

The owner, Infinium Technologies AG of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 7,054,378 as the term of said prior patent is defined in 35 U.S.C. 154 and 173 and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is renewed; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer

Check either box 1 or 2 below, if appropriate

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 76,891

/Thomas G. Eschweiler/

June 13, 2008

Signature

Date

Thomas G. Eschweiler

Typed or printed name

(216) 902-0600

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included

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*Statement under 37 CFR 1.73(b) is required if terminal disclaimer is signed by the assignee (owner)
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This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to be used by the USPTO to process an application. Confidentiality is governed by 38 U.S.C. 102 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, reviewing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual time. Any comments on this amount of time you require to complete this form, and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450